

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 04-11598-WGY

HARVEY STEWART
Plaintiff

04 11598 WGY

v.

COMPLAINT

ANTHONY J. PRINCIPI, SECRETARY,
UNITED STATES DEPARTMENT OF
VETERANS AFFAIRS

Defendant

MAGISTRATE JUDGE cohen

RECEIPT # 57383

AMOUNT \$ 150

SUMMONS ISSUED yes

LOCAL RULE 4.1

WAIVER FORM

MCF ISSUED

BY DPTY. CLK 10M

DATE 7/19/04

THE ACTION

1. The Plaintiff, Harvey Stewart, an employee of the United States Department of Veterans Affairs, brings this action seeking compensatory and punitive damages against the defendant, Anthony J. Principi, Secretary of the Department of Veterans Affairs, for discriminating against the Plaintiff (a) for opposing practices that are unlawful employment practices under Chapter 21 of Title 42 of the United States Code and (b) because the Plaintiff made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under Title 42, Chapter 21, Subchapter VI of the United States Code, in violation of 42 U.S.C., § 2000e-3. He seeks an order requiring the Defendant to reinstate him to his previous position, to cease its unlawful discrimination, and for compensatory damages.

JURISDICTION AND VENUE

2. Jurisdiction over the subject matter of this action is conferred upon this Court by 42 U.S.C., §§ 2000e-5 and 2000e-16 and by 28 U.S.C., § 1331 and because the United States, its officers or agencies, is a Defendant in this matter.
3. Venue in the United States District Court, District of Massachusetts is proper pursuant to 42 U.S.C., § 2000e-5(f)(3), in that the Plaintiff is employed by the United States Department of Veterans Affairs in Massachusetts, all of the unlawful employment practices took place in the judicial district of Massachusetts, and the employment records relevant to the unlawful employment practices are maintained and administered in the judicial district of Massachusetts.

PROCEDURAL REQUIREMENTS

4. The Plaintiff filed a timely formal Administrative Equal Employment Opportunity Complaint properly alleging that the Plaintiff was discriminated against (a) for opposing practices that are unlawful employment practices under Chapter 21 of Title 42 of the United States Code and (b) because the Plaintiff made a charge, testified, assisted and/or participated in any manner in an investigation, proceeding or hearing under Title 42, Chapter 21, Subchapter VI of the United States Code, in violation of 42 U.S.C., § 2000e-3.

5. On April 26, 2004, the Department of Veterans Affairs mailed to the Plaintiff a Final Order formally notifying him of his right to file a civil action. A copy of the Final Order is attached as Exhibit 1 hereto.
6. The Plaintiff filed his Complaint in this civil action within ninety (90) days of the date he received notification of his right to sue.
7. All conditions precedent to the institution of this lawsuit, pursuant to 42 U.S.C. Section 2000e-16(c), have been fulfilled.

PARTIES

8. The Plaintiff, Harvey Stewart, resides at 17 Sedgewick Road, Fairhaven, Bristol County, Massachusetts and is employed by the United States Department of Veterans Affairs' Brockton V.A. Medical Center at 940 Belmont Street, Brockton, Massachusetts.
9. The Defendant, Anthony J. Principi, is the Secretary of Veterans Affairs and the official head of the United States Department of Veterans Affairs.
10. The Defendant, Anthony J. Principi, Secretary of the United States Department of Veterans Affairs, is named under the provisions of Title VII of the Civil Rights Act of 1964, as codified in 42 U.S.C., §§ 2000e to 2000e-17 and as amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub.L.No. 102-166, for the United States Department of Veterans Affairs' discrimination against the Plaintiff (a) for opposing practices that are unlawful employment practices under Chapter 21 of Title 42 of the United States Code and (b) because the Plaintiff made a charge, testified, assisted and/or participated in any manner in an investigation, proceeding

or hearing under Title 42, Chapter 21, Subchapter VI of the United States Code, in violation of 42 U.S.C., § 2000e-3.

FACTS

11. The Plaintiff, Harvey Stewart, has been an employee of the United States Department of Veterans Affairs, at its Brockton V.A. Medical Center since November, 1994.
12. The Plaintiff, Harvey Stewart, at all times relevant hereto, performed his job duties at the Brockton V.A. Medical Center competently.
13. The Plaintiff came to the Brockton V.A. Medical Center with eleven years of experience in mental health and substance abuse treatment and a Masters Degree of Education in Counseling Psychology.
14. The United States Department of Veterans Affairs hired the Plaintiff to work as a Case Manager in the Brockton V.A. Medical Center's REACH Program, where he worked under the supervision of Robert Hallett from November, 1994 until April, 1999.
15. The Plaintiff's position as a Case Manager in the REACH Program involved (a) providing individual counseling services, anger management and substance abuse treatment groups and diagnostic psychosocial assessments, and (b) participating in a multidisciplinary treatment team, duties which were consistent with his education, training and experience.
16. During 1998, the Plaintiff approached Sharon O'Leary, an EEO counselor at the Brockton V.A. Medical Center, to complain about his working

conditions and his limited opportunity for advancement within the United States Department of Veterans Affairs.

17. During his communication with the EEO counselor, Sharon Leary, the Plaintiff opposed practices that are unlawful employment practices under Chapter 21 of Title 42 of the United States Code.
18. The Equal Opportunity Employment Commission, in an April 17, 2004 decision, ruled that the Plaintiff engaged in protected activity when he consulted with the EEO counselor in 1998.
19. In connection with the Plaintiff's communication with the EEO counselor, Sharon Leary, the Plaintiff made a charge, testified, assisted and participated in an investigation and proceeding under Title 42, Chapter 21, Subchapter VI of the United States Code.
20. The Plaintiff's supervisor, Robert Hallett, was aware of the Plaintiff's communication with the EEO counselor, Sharon Leary, and the Plaintiff's opposition to unlawful employment practices under Chapter 21 of Title 42 of the United States Code, as well as the Plaintiff's charge and participation and assistance with an investigation and proceeding under Title 42, Chapter 21, Subchapter VI of the United States Code.
21. After the Plaintiff's meeting with the EEO counselor, Robert Hallett unduly scrutinized the Plaintiff's work and subjected him to unfair criticism.
22. In early April, 1999, Robert Hallett falsely accused the Plaintiff of patient abuse.

23. When Robert Hallett made his false accusations against the Plaintiff, Robert Hallett and the United States Department of Veterans Affairs were discriminating against the Plaintiff for opposing practices that are unlawful employment practices under Chapter 21 of Title 42 of the United States Code and for making a charge and participating and assisting with an investigation and proceeding under Title 42, Chapter 21, Subchapter VI of the United States Code.
24. On April 13, 1999, shortly after making his false accusations against the Plaintiff, Robert Hallett, while acting on behalf of the United States Department of Veterans Affairs, involuntarily transferred the Plaintiff from his chosen position as a Case Manager to a position as a Health Technician in the Gastrointestinal Unit.
25. As a trained counselor, with a Masters Degree in Education in Counseling Psychology, the Plaintiff found the Health Technician position unwelcome, demeaning, and inconsistent with his education, experience, training, and his career of choice.
26. The Plaintiff's involuntary transfer resulted in his removal from his chosen profession.
27. The Plaintiff informed his superiors within the United States Department of Veterans Affairs that his transfer was unwelcome and demeaning.
28. When Robert Hallett involuntarily transferred the Plaintiff to a Health Technician position, Robert Hallett and the United States Department of Veterans Affairs were discriminating against the Plaintiff for opposing

36. Robert Hallett has had overall responsibility for the PATH Program at all times since the time of the Plaintiff's transfer in July, 1999.
37. Robert Hallett assigned Robert Watts to be the Plaintiff's direct supervisor in the PATH Program.
38. Robert Watts is aware of the Plaintiff's communication with EEO counselor, Sharon Leary, and the Plaintiff's opposition to unlawful employment practices under Chapter 21 of Title 42 of the United States Code, as well as the Plaintiff's charge and participation and assistance with an investigation and proceeding under Title 42, Chapter 21, Subchapter VI of the United States Code.
39. When Robert Hallett assigned Robert Watts to be the Plaintiff's direct supervisor, he did so knowing that Robert Watts and the Plaintiff had experienced difficulty in working together on a previous assignment and that Robert Watts had expressed hostility toward the Plaintiff.
40. When Robert Hallett assigned Robert Watts to be the Plaintiff's direct supervisor, Robert Hallett and the United States Department of Veterans Affairs were discriminating against the Plaintiff for opposing practices that are unlawful employment practices under Chapter 21 of Title 42 of the United States Code and for making a charge and participating and assisting with an investigation and proceeding under Title 42, Chapter 21, Subchapter VI of the United States Code.

41. On December 6, 2001, Dr. Charles Swett, a manager in the PATH program, issued a written counseling to the Plaintiff, upon the recommendation of the Plaintiff's immediate supervisor, Robert Watts.
42. In the December 6, 2001 written counseling, Charles Swett, while acting on behalf of the United States Department of Veterans Affairs, wrongfully accused the Plaintiff of refusing to take patients' vital signs, when the Plaintiff had not refused to take vital signs and taking vital signs was not one of the Plaintiff's job duties.
43. As a result of the United States Department of Veterans Affairs and its agents and employees' actions, the Plaintiff has been:
 - a. subjected to undue scrutiny and unfair criticism;
 - b. falsely accused of committing patient abuse;
 - c. caused to suffer undesirable job transfers and other adverse employment actions;
 - d. caused to suffer lost wages;
 - e. caused to suffer a loss of opportunities to advance his career;
 - f. subjected to undue hostility from supervisors;
 - g. subjected to unfair and unwarranted disciplinary action, including an undeserved written counseling;
 - h. subjected to a hostile and offensive work environment;
 - i. caused to experience emotional pain and suffering, humiliation, and mental anguish;
 - j. subjected to false accusations, damaging his reputation;

- k. denied the opportunity to practice his chosen profession; and
 - l. caused to lose over five years of experience in his chosen profession, damaging his future job prospects.
- 44. The above-referenced acts of retaliation of the United States Department of Veterans Affairs against the Plaintiff were continuing in nature.

COUNT I – RETALIATION IN VIOLATION OF 42 U.S.C., § 2000e-3

- 45. The Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 44 inclusive with like force and effect as if fully set forth herein.
- 46. The Plaintiff states that his communications with the EEO counselor and his participation and assistance in the investigation of the complaint he communicated to the EEO counselor were protected activities and constituted opposition to unlawful employment practices, within the meaning of the Civil Rights Act of 1964, §§ 701-717 as codified in 42 U.S.C. §§ 2000e-2000e-17, and as amended in 1972, 1978, and by the Civil Rights Act of 1991, Pub.L.No. 102-166, and/or other applicable law.
- 47. The Plaintiff says that the United States Department of Veterans Affairs, by each of the actions described above, has displayed discriminatory and retaliatory animus toward the Plaintiff in violation of the Civil Rights Act of 1964, §§ 701-717 as codified in 42 U.S.C. §§ 2000e-2000e-17, and as amended in 1972, 1978, and by the Civil Rights Act of 1991, Pub.L.No. 102-166, and/or other applicable law.
- 48. The Defendant has discriminated against the Plaintiff, Harvey Stewart, for opposing practices that are unlawful employment practices under Chapter

21 of Title 42 of the United States Code, in violation of 42 U.S.C., § 2000e-3.

49. The Defendant has discriminated against the Plaintiff, Harvey Stewart, because he made a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under Title 42, Chapter 21, Subchapter VI of the United States Code, in violation of 42 U.S.C., § 2000e-3.
50. The United States Department of Veterans Affairs' acts of retaliation against the Plaintiff described herein, were willful and deliberate.
51. The United States Department of Veterans Affairs' acts of retaliation against the Plaintiff constituted a continuing violation of 42 U.S.C., § 2000e-3.
52. As a result of the retaliatory actions of the United States Department of Veterans Affairs described herein, the Plaintiff suffered damages by being:
 - a. subjected to undue scrutiny and unfair criticism;
 - b. falsely accused of committing patient abuse;
 - c. caused to suffer undesirable job transfers and other adverse employment actions;
 - d. caused to suffer lost wages;
 - e. caused to suffer a loss of opportunities to advance his career;
 - f. subjected to undue hostility from supervisors;
 - g. subjected to unfair and unwarranted disciplinary action, including an undeserved written counseling;

- h. subjected to a hostile and offensive work environment;
- i. caused to experience emotional pain and suffering, humiliation, and mental anguish;
- j. subjected to false accusations, damaging his reputation; and
- k. denied the opportunity to practice his chosen profession; and
- l. caused to lose over five years of experience in his chosen profession, damaging his future job prospects.

WHEREFORE, the Plaintiff makes the following claims for relief: (1) that the Defendant pay the Plaintiff compensatory damages, including but not limited to, back pay, front pay, damages for emotional pain and suffering and mental anguish, damages for humiliation and emotional distress, and all other such damages as may be permitted; (2) that the Defendant pay to the Plaintiff exemplary damages; (3) that the Defendant pay to the Plaintiff interest from the time of the injuries until the time of the filing of the claims in this matter; (4) that the Defendant pay to the Plaintiff interest from the time of the filing of this claim until the date of judgment; (5) that the Defendant pay to the Plaintiff his reasonable attorneys' fees; (6) that the Defendant reinstate the Plaintiff to his chosen position as Case Manager in the Defendant's REACH Program at its Brockton V.A. Medical Center; and (7) that the Court order such other relief as may be just and appropriate.

JURY CLAIM

**The Plaintiff claims the right to a jury trial in this matter as to all
matters so triable pursuant to the laws and Constitution of the United
States of America.**

HARVEY STEWART,
By his Attorney,



Scott W. Lang, Esquire BBO #285720
Lang, Xifaras & Bullard
115 Orchard Street
New Bedford, MA 02740
(508) 992-1270

Dated: July 19, 2004

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

HARVEY STEWART

(b) County of Residence of First Listed Plaintiff Bristol, MA
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

ANTHONY J. PRINCIPI, SECRETARY, UNITED STATES DEPARTMENT OF VETERANS AFFAIRS

County of Residence of First Listed

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Scott W. Lang, Esquire, Lang, Xifaras & Bullard,
115 Orchard Street, New Bedford, MA 02740
(508) 992-1270

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input checked="" type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff (For Diversity Cases Only) and One Box for Defendant)

Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	DEF	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	DEF	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	DEF	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	REAL PROPERTY <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	CIVIL RIGHTS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	PRISONER PETITIONS <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(g)) <input type="checkbox"/> 864 SSI/ Title XVI <input type="checkbox"/> 865 RSI (405(g))
			FEDERAL TAXSUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination/ Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or <input type="checkbox"/> 5 Reopened	Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.)

Do not cite jurisdictional statutes unless diversity.

Federal employee claiming his employer violated 42 U.S.C., 2000e-3 by discriminating against him (a) for opposing unlawful employment practices and (b) because he made a charge, testified, and/or participated in an investigation under Title 42, Chapter 21, Subchapter VI of the U.S.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ \$250,000.00 CHECK YES only if demanded in complaint: Code. JURY DEMAND: Yes No

VIII. RELATED CASE(S) (See instructions):

IF ANY

JUDGE
E

DOCKET NUMBER

DATE 7/19/04 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) HARVEY STEWART v. ANTHONY J. PRINCIPAL, SECRETARY, UNITED STATES DEPARTMENT OF VETERANS AFFAIRS

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

V. 150, 152, 153.

*Also complete AO 120 or AO 121
for patent, trademark or copyright cases

04 1159 8 WGY

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

N/A

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO N/A

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO 7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES NO A. If yes, in which division do all of the non-governmental parties reside?Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

N/A YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Scott W. Lang, EsquireADDRESS 115 Orchard Street, New Bedford, MA 02740TELEPHONE NO. (508) 992-1270